

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32

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CONSTELLATION BRANDS U.S.
OPERATIONS, INC. D/B/A WOODBRIDGE
WINERY,

Cases: 32-CA-186265
32-CA-186238

Respondent Employer,

vs.

**RESPONDENT EMPLOYER'S
EXCEPTIONS TO DECISION OF THE
ADMINISTRATIVE LAW JUDGE**

CANNERY, WAREHOUSEMEN, FOOD
PROCESSORS, DRIVERS AND HELPERS,
LOCAL UNION NO. 601, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS,

Charging Party.

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Dated: September 21, 2018

Pursuant to Section 102.46 of the Board's Rules and Regulations, Constellation Brands, U.S. Operations, Inc. ("Constellation") d/b/a Woodbridge Winery ("Woodbridge"), by its undersigned labor counsel, hereby excepts to the Decision of Administrative Law Judge ("ALJ") Ariel L. Sotolongo, as follows:

A. Cellar Lives Matter – Manuel Chavez:

1. To the ALJ's conclusion that Manuel Chavez ("Chavez") engaged in concerted activity protected under Section 7 of the NLRB when he wore the safety vest with the slogan "Cellar Lives Matter." JD at 10:35-36.

2. To the ALJ's finding that Respondent's argument that Chavez's vest was offensive and likely to cause disruption in light, was unpersuasive. JD at 10:44.

3. To the ALJ's finding that the record is devoid of any evidence that Chavez intended to mock the BLM movement and that he succeeded in doing so. JD at 11:1-2.

4. To the ALJ's finding that Schultz and Cantu improperly projected an undertone of racial significance to the slogan. JD at 11:9-10.

5. To the ALJ's finding that Respondent's witnesses "insinuated that the Black Lives Matter movement was in some manner, directly or indirectly, responsible for the acts of the hateful or deranged Dallas police assassin." JD at 11:14-16.

6. To the ALJ's finding that Respondent's assumption that the "Cellar Lives Matter" slogan may have invited violence in the workplace. JD at 11, fn.25.

7. To the ALJ's finding that the unprotected conduct in *Komatsu America Corp.* and *Southwestern Bell Telephone Co.* are not analogous to the conduct exhibited by Chavez herein.

8. To the ALJ's finding that no "special circumstances" exist in this case." JD at 12:24; 13:1-2.

9. To the ALJ's finding that "Chavez's slogan was not obscene or vulgar, nor in any way appealed to ethnic or racial prejudice." JD at 12:24-25.

10. To the ALJ's finding that Chavez's slogan was not racially motivated. JD at 12:26.

11. To the ALJ's finding that "[w]hile Chavez technically was not wearing 'union insignia,' but rather a self-created slogan, this a distinction without a difference." JD at 12:39-40.

12. To the ALJ's finding that Moeckly's explanation regarding the slogan was disingenuous and unpersuasive. JD at 12, fn.27.

13. To the ALJ's conclusion that Respondent violated Section 8(a)(1) of the Act by directing Chavez to refrain from wearing the vest with the "Cellar Lives Matter" slogan. JD at 14:6-8.

B. Short-Term Incentive Plan:

14. To the ALJ's finding that Respondent's short-term incentive plan conveyed the message "that employees who choose union representation are automatically ineligible for any wages or benefits granted or offered to others." JD at 15:4-6.

15. To the ALJ's finding that Respondent conveyed the message or inference that union employees are automatically ineligible for any wage and benefits granted or offered to others who chose not to be represented by a union. JD at 15:5-7.

16. To the ALJ's refusal to consider Woodbridge's New Hire Document.


17. To the ALJ's conclusion that Respondent's short-term incentive plan language is coercive and violates Section 8(a)(1) of the Act. JD at 15:11-13.

18. To the ALJ's finding that a nation-wide remedy concerning Respondent's alleged handbook violation is appropriate and warranted. JD at 16, fn.31.

19. To the ALJ's erroneous Summary Conclusions of Law as being inconsistent with Board law and not supported in the record.

20. To the remedies and Order issued by the ALJ as being inappropriate and unnecessary as the Complaints should have been dismissed in their entirety.

Respectfully submitted,
KAUFMAN DOLOWICH & VOLUCK, LLP

A handwritten signature in black ink, appearing to read 'MAK', is written over a horizontal line.

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STATEMENT OF SERVICE

I hereby certify and declare under penalty of perjury, under the laws of the United States of America and the State of California, that a copy of the Respondent Employer's Exceptions to Decision of the Administrative Law Judge, and accompanying Brief in support thereof, was served today, September 21, 2018, on the following parties or persons via Facsimile and Federal Express:

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